is to be distinguished from the principal case. In that case the court expressly declared the cause of action to be contractual, but refused to sustain it in New York against stockholders of a Kansas corporation.

BANKRUPTCY—STAYING AN ACTION PENDING IN STATE COURT.—§11(a) of the BANKRUPTCY ACT provides that a suit founded upon a claim from which a discharge in bankruptcy would be a release and pending against a person at the time of the filing of the petition *shall* be stayed until after an adjudication or dismissal of the petition, and that if such person is adjudged a bankrupt, such action *may* be further stayed until twelve months after the date of adjudication, etc. *Held,* that suit in the state court should have been stayed till after adjudication. *Anders Bros.* v. *Latimer,* (Ala. 1917), 73 So. 925.

Held, that whether the action is to be further stayed after an adjudication is to be determined by the trial judge in the exercise of his discretion. *Smith* v. *Miller,* (Mass. 1917), 115 N. E. 243.

Held, that the state court is not deprived of its jurisdiction by the stay, and may proceed after adjudication. *Brazil* v. *Azevedo,* (Cal. App. 1916), 162 Pac. 1049.

Because of the use of the word "shall" in the first part of §11(a) and of "may" in the second part, these three recent cases agree that till after adjudication a stay shall be granted as of right, but that thereafter the state court can exercise its discretion. Other cases to the same effect are *Rosenthal* v. *Nove,* 175 Mass. 559, 563, 56 N. E. 884, 886; *In re Gunacevi Tunnel Co.,* 201 Fed. 316, 119 C. C. A. 554. Only suits founded on claims provable and dischargeable are stayed under §11(a). *In re Macauley,* 101 Fed. 223; *Imbriani* v. *Anderson,* 76 N. H. 491, 84 Atl. 974. Those to which a discharge is not a release are not stayed, such as suits to require corporations to issue stock, suits based on fraud, or to recover fines imposed by state courts, etc. *In re Clipper Mfg. Co.,* 179 Fed. 843; *In re Wallack,* 120 Fed. 516; *In re Cole,* 106 Fed. 837; or suits in state courts to assert rights in rem, *Tennessee Marble Co.* v. *Grant,* 135 Fed. 322, 14 A. B. R. 288; *United Wireless Co.,* 192 Fed. 238. Even though the suit is commenced after the filing of the petition, it must be stayed as of right till after adjudication. *In re Basch,* 97 Fed. 761.

BANKRUPTCY—TRUSTEE'S RIGHTS UNDER UNRECORDED CONDITIONAL SALE.—Under §62 of the PERSONAL PROPERTY LAW of New York (CONSOL. LAWS, c. 41), providing that all conditions in a conditional sale contract, accompanied by delivery of the goods reserving title in the vendor, shall be void as against subsequent purchasers, pledgees or mortgagees in good faith, unless recorded, an unrecorded conditional sale contract is valid against the creditors of the buyer. §47a(2) of the BANKRUPTCY ACT gives to the trustee in bankruptcy the rights, remedies and powers of lien creditors. *Held,* that the trustee in bankruptcy acquired no rights to the goods. *Mergenthaler Linotype Co.* v. *Hull,* 239 Fed. 26.

§47a(2) as amended in 1910 confers upon the trustee the rights which the bankrupt or any creditor possessed at the time of filing the petition. *Potter Mfg. Co.* v. *Arthur,* 220 Fed. 843, 136 C. C. A. 589, Ann. Cas. 1916A 1268;

In re Floyd-Scott Co., 224 Fed. 987. But as the reserved title of the conditional vendor was valid as to creditors of the vendee, the trustee had no right to retain the property. Other cases arising under the same New York statute and decided in the same manner are *In re I. S. Remsen Mfg. Co.*, 227 Fed. 207; *In re White's Express Co.*, 215 Fed. 894. Where the conditions in an unrecorded conditional sale are void *as to creditors*, the trustee is entitled to the goods. *In re Roellich*, 223 Fed. 687; *Augusta Grocery Co.* v. *Sou. Moline Plow Co.*, 213 Fed. 786, 130 C. C. A. 444; *In re Franklin Lumber Co.*, 187 Fed. 281. Where the conditions are void only as to creditors fastening liens or taking out execution on the property, the right to fasten them or levy execution passes to the trustee. *Potter Mfg. Co.* v. *Arthur*, 220 Fed. 843; *In re Gehris-Herbine Co.*, 188 Fed. 502. The trustee, even where he acquires no rights to the goods, may, with the approval of the court, pay the amount due and retain the property. *In re Wegman Piano Co.*, 221 Fed. 128.

BANKS AND BANKING—SECURITIES SUBJECT TO BANKER'S LIEN.—A retail monument dealer deposited his customers' contracts with his manufacturer as security for the orders. The manufacturer deposited them with the defendant bank for collection. In a suit by the trustee in bankruptcy of the manufacturer to recover the proceeds of the contracts after collection, *held*, the contracts are paper securities within the rule that a banker has a lien for a general balance due him on all securities deposited with him for collection. *Goodwin* v. *Barre Sav. & Trust Co.*, (Vt. 1917), 100 Atl. 34.

It has long been settled that a banker who has advanced money to another has a general lien on funds of the latter in his hands for the amount of his general balance unless such were delivered to him under a particular agreement limiting their application. *Bank of Metropolis* v. *New England Bank*, 1 How. 234; *Sweeny* v. *Easter*, 1 Wall. 166; *Barnett* v. *Brandao*, 6 M. & G. 630. The theory is that the possession of the securities or the expectation of possession leads to the extension of credit by the bank. *Reynes* v. *Dumont*, 130 U. S. 354; *Gibbons* v. *Hecox*, 105 Mich. 509. Just what property in the possession of the banker is subject to this general lien does not appear to have been so definitely decided. It is clear that it attaches to deposits and ordinary commercial paper, *Joyce* v. *Auten*, 179 U. S. 591, 45 L. ed. 332; *Wood* v. *Bank*, 129 Mass. 358; and this extends to commercial paper left with the bank for collection, *Joyce* v. *Auten*, supra, *Garrison* v. *Trust Co.*, 139 Mich. 392, 102 N. W. 978; but a bank has no such lien on securities accidentally in its possession, *Bank* v. *Gatton*, 172 Ill. 625, nor on packages left for safe keeping, *Leese* v. *Martin*, L. R. 17 Eq. 224; *Ex Parte Eyre*, 1 Ph. 227. In *Bank of Metropolis* v. *New England Bank*, supra, the rule was stated to be that the lien attached to all "paper securities" and this has been approved by other cases although the courts in each case were dealing with commercial paper. *Lehman Bros.* v. *Mfg. Co.*, 64 Ala. 567; *Bank* v. *Hanson*, 34 Neb. 455, 51 N. W. 1035. In *Tufts* v. *Bank & Trust Co.*, 59 N. J. L. 380, 35 Atl. 792, it was held that the lien attached to the proceeds of a paper in the form of a promissory note, but invalid as such. The court in the instant case